

Sec. 2-137. - Lobbying.

(a) As used in this section "lobbyist" means all employees, persons, firms, or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of:

- (1) Any ordinance, resolution, action or decision of the Village Council;
- (2) Any action, decision, recommendation of any Village Manager, Village board or committee; or
- (3) Any action, decision or recommendation of Village personnel during the time period of the entire decision-making process on the action, decision or recommendation which foreseeably will be heard or reviewed by the Village Council, or a Village board or committee.

(b) Defining Lobbying and Exemptions.

(1) The term "Lobbyist" shall be defined to specifically include the principal as well as any employee whose normal scope of employment includes lobbying activities. To be clear, a corporation speaking through its principal shareholder or officer is considered a lobbyist. Lobbying is prohibited if a person is not properly registered whether it be a face-to-face meeting, a telephone conversation or an email exchange. Simply gathering information is not lobbying. Individuals performing routine administrative functions for a client are not lobbyists.

(2) The term "lobbyist" specifically excludes the following persons:

- (i) lobbyists hired by the Village who are to communicate with Village personnel in the course of performing under their contracts;
- (ii) attorneys or other representatives retained or employed solely for the purpose of represent individuals, corporations or other entities during publicly noticed quasi-judicial proceedings where the law prohibits ex-parte communications;
- (iii) expert witnesses who only provide scientific, technical or other specialized information or testimony at public meetings; any person who only appears as a representative of a neighborhood association without compensation or reimbursement for the appearance, whether direct, indirect, or contingent, to express support of or opposition to any item; and
- (iv) employees of a principal whose normal scope of employment does not include lobbying activities.
- (v) Any public officer, employee or appointee who only appears in his or her official capacity shall not be required to register as a lobbyist.

(b) All lobbyists shall register with the Village Clerk within five business days of being retained as a lobbyist, or before engaging in any lobbying activities, whichever shall come first. Every person required to register shall:

- (1) Register on forms prepared by the Village Clerk;
- (2) State under oath his or her name, business address and the name and business address of each person or entity which has employed the registrant to lobby. If the lobbyist represents a corporation, it shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five percent or more ownership interest in the corporation, partnership, or trust. After initial registration, the lobbyist shall annually re-register prior to January 15th of the applicable year and each person who withdraws as a lobbyist for a

particular client shall file an appropriate notice of withdrawal. The fee for annual registration shall be \$490.00.

(3) In addition, every registrant shall be required to state the extent of any business or professional relationship with any current person described in subsection 2-122(1). The registration fees required by this section shall be deposited by the Village Clerk into a separate account and shall be expended for the purpose of recording, transcribing, administration and other costs incurred in maintaining these records for availability to the public. Unexpended funds may be transferred to general revenue at the end of the fiscal year. There shall be no fee required for filing a notice of withdrawal and the Village Council may, in its discretion, waive the registration fee upon a finding of financial hardship.

(4) Prior to conducting any lobbying, all principals must file a form with the Village Clerk, signed by the principal or the principal's representative, stating that the lobbyist is authorized to represent the principal. Failure of a principal to file the form required by the preceding sentence may be considered in the evaluation of a bid or proposal as evidence that a proposer or bidder is not a responsible contractor. Each principal shall file a form with the Village Clerk at the point in time at which a lobbyist is no longer authorized to represent the principal.

(5) Every lobbyist shall sign-in with the Village Clerk each time he or she meets with Village personnel at a Village facility, or shall deliver a memorandum of meeting to the Village Clerk within 24 hours of meeting with Village personnel at another location, and shall inform the Village Clerk, in writing, of the: (i) Name of the lobbyist; (ii) the Village personnel; (iii) the time and place of the meeting; and (iv) the issue to be discussed. The issue shall be described with as much detail as is practical, including but not limited to a specific description where applicable to a pending request for a proposal, invitation to bid, or public hearing item.

(c) Any person who appears as a representative for an individual or firm for an oral presentation before a Village certification, evaluation, selection, technical review or similar committee, shall list on an affidavit provided by the Village all individuals who may make a presentation. The affidavit shall be filed by staff with the Village Clerk's office at the time the proposal is submitted. For the purpose of this section only, the listed members of the presentation team shall not be required to pay any registration fees. No person shall appear before any committee on behalf of an individual or firm unless he or she has been listed as part of the firm's presentation team pursuant to this paragraph or unless he or she is registered with the Village Clerk's office and has paid all applicable fees.

(d) Financial Disclosure Filing as to Expenditures

(1) By July 1st of each year, the lobbyist shall submit to the Village Clerk a signed statement under oath listing all lobbying expenditures for the preceding calendar year. A statement shall not be required to be filed if there have been no expenditures during the reporting period. The statement shall list in detail each expenditure by category, including food and beverage, entertainment, research, communication, media advertising, publications, travel, lodging and special events.

(2) The Village Clerk shall notify any lobbyist who fails to timely file an expenditure report. In addition to any other penalties which may be imposed, a fine of \$15.00 per day shall be assessed for reports filed after the due date. Where a fine of per day is assessed, the Miami-Dade County Commission on Ethics and Public Trust shall not impose an additional fine as provided in Section 2-11.1(u) of the [Miami-Dade] County Code. Any lobbyist who fails to file the required expenditure report by September 1st shall be automatically suspended from lobbying until all fines are paid unless the fine has been appealed to the Miami-Dade County Commission on Ethics.

(3) The Village Clerk shall notify the Miami-Dade County Commission on Ethics and Public Trust of the failure of a lobbyist or principal to file a report and, or, pay the assessed fines after notification.

(4) A lobbyist or principal may appeal a fine and may request a hearing before the Miami-Dade County Commission on Ethics and Public Trust. A request for a hearing on the fine must be filed with the Miami-Dade County Commission on Ethics within 15 calendar days of receipt of the notification of the failure to file the required disclosure form. The Miami-Dade County Commission on Ethics and Public Trust shall have the authority to waive the fine, in whole or part, based on good cause shown.

(e) The Village Clerk shall publish logs on a quarterly and an annual basis reflecting the lobbyist registrations which have been filed in accordance with this section. All logs required by this Section shall be prepared in a manner substantially similar to the logs prepared for the Florida Legislature pursuant to § 11.045, Florida Statutes.

(f) Investigation and violations of Lobbying Code.

(1) A lobbyist that is found to have violated this code shall be prohibited from lobbying the Council, Committee, or Board on that subject and shall be subject to a \$500.00 fine.

(2) The Miami-Dade County Commission on Ethics and Public Trust shall investigate any person engaged in lobbying activities who may be in violation of this Section. In the event that a violation is found to have been committed, the person shall be prohibited from lobbying before the Village Council or any committee, board or personnel of the Village on the subject that resulted in a finding of a violation, and be subject to the penalties set forth in this chapter.

(3) Additionally, every lobbyist who is found to be in violation of this section shall be prohibited from registering as a lobbyist or lobbying in accordance with the following schedule:

- First violation for a period of 90 days from the date of determination of violation;
- Second violation for a period of one year from the date of determination of violation;
- Third violation for a period of five years from the date of determination of violation.

(g) A bidder or proposer shall be subject to the debarment provisions of Section 10-38 of the Code of Miami-Dade County as if the bidder or proposer were a contractor where the bidder or proposer has violated this section, either directly or indirectly or any combination thereof, on three or more occasions. As used herein, a "direct violation" shall mean a violation committed by the bidder or proposer and an "indirect violation" shall mean a violation committed by a lobbyist representing the bidder or proposer. A contract entered into in violation of this section shall also render the contract voidable. The Village Manager shall include the provisions of this section in all Village bid documents, RFP, RFQ, CBO and CDBG applications; provided, however, the failure to do so shall not render any contract entered into as the result of the failure illegal per se.

(h) All members of the Village Council, and all Village personnel, shall be diligent to ascertain whether persons required to register pursuant to this section have complied. Village Council members or Village personnel may not knowingly permit a person who is not registered pursuant to this section to lobby the Village Council members, or committee, board or Village personnel.

(i) Except as otherwise provided in subsection (f), above, the validity of any action or determination of the Village Council members or Village personnel, board or committee shall not be affected by the failure of any person to comply with the provisions of this subsection.

(j) Commencing on the effective date of this Section, and by July 1, of every year thereafter, each lobbyist shall disclose the terms and amount of compensation paid by each principal to the lobbyist. The principal shall also disclose the terms and amount of compensation paid to every lobbyist retained or employed by the principal. No person may, in whole or in part, pay, give or agree to pay or give a contingency fee to a lobbyist. No lobbyist may, in whole or in part, receive or agree to receive a contingency fee. As used herein, "contingency fee" means a fee, bonus, commission, or non-monetary benefit paid or promised as compensation which is dependent on or in any way contingent on the passage, defeat, or modification of:

- (1) Any ordinance, resolution, action or decision of the Village Council;
- (2) Any action, decision or recommendation of any Village Manager, Village board or committee; or
- (3) Any action, decision or recommendation of Village personnel during the time period of the entire decision-making process regarding the action, decision or recommendation which foreseeably will be heard or reviewed by the Village Council, or a Village board or committee.